
OLR Bill Analysis

sSB 910 (File 314, as amended by House “A” and “B” and Senate “A”)*

AN ACT CONCERNING EMPLOYEE ACCESS TO PERSONNEL FILES.

SUMMARY:

This bill specifies how quickly an employer must provide a current or former employee with access to his or her personnel file. It allows an employer to mail the file to a former employee if they cannot agree on a location for the former employee to inspect the files.

The bill also requires employers to (1) provide employees with copies of documentation of any disciplinary action or termination and (2) notify employees that they can include in their personnel file a written statement disagreeing with disciplinary, termination, or evaluation documents.

The bill provides the labor commissioner with discretion to determine penalty amounts, within certain limits, for individual violations of the Personnel Files Act and specifies factors that she must consider when making this determination.

*House Amendment “A” adds the provision allowing the labor commissioner, within certain limits and guidelines, to determine how much an employer will be penalized for violating the Personnel Files Act.

*House Amendment “B” adds the provision allowing an employer to mail a former employee his or her personnel file if they cannot agree on a location to inspect it.

*Senate Amendment “A” (1) gives an employer seven, instead of five, business days to allow an employee access to his or her files and

(2) allows an employee to disagree with an employer's disciplinary action, termination notice, or performance evaluation, instead of the employer's statement regarding the employee's right to submit a written disagreement.

EFFECTIVE DATE: October 1, 2013

EMPLOYEE ACCESS TO PERSONNEL FILES

Current law requires employers to let employees inspect their personnel files within a reasonable time after receiving a written request. The inspection must be during regular business hours at a location at, or reasonably near, the employee's place of employment. The bill requires employers to provide this access and, if requested, allow the files to be copied within (1) seven business days for current employees and (2) 10 business days for former employees.

If an employer and former employee cannot agree on a location for the former employee to inspect the files, the bill allows the employer to mail a copy of the file to the former employee within 10 days of receiving the written request for the file. Under the bill, former employees must request their files within one year of their termination from the employer. By law, employers must keep a former employee's records for at least one year.

DISCIPLINE, TERMINATION, AND EVALUATION DOCUMENTS

The bill requires employers to provide an employee with a copy of any documentation of any disciplinary action imposed on that employee within one business day. It also requires employers to immediately provide an employee with a copy of any documented notice of the employee's termination from employment.

Under the bill, whenever an employer documents an employee's disciplinary action, termination notice, or performance evaluation, the employer must include a statement in clear and conspicuous language that the employee can submit a written statement disagreeing with anything in the disciplinary action, termination notice, or performance evaluation. The employer must keep the employee's statement in the

personnel file and include it whenever the file is transmitted or disclosed to a third party.

PENALTIES

Current law requires the labor commissioner to issue a \$500 civil penalty for the first violation of the Personnel Files Act against a particular employee and a \$1,000 penalty for any subsequent violations related to the same employee. The bill instead allows the commissioner to issues penalties up to \$500 for first violations and up to \$1,000 for subsequent violations related to an employee or former employee.

When determining a penalty's amount, the bill requires the labor commissioner to consider (1) the penalty level needed to insure immediate and continued compliance with the Personnel Files Act, (2) the violation's character and degree of impact, (3) any prior violations of the Personnel Files Act by the employer, and (4) any other factors she deems relevant.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 0 (03/19/2013)